

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

COURTROOM PROCEEDINGS

The court met in its courtroom at 1:30 P.M. Present: Honorable Nickolas J. Dibiaso, Acting Presiding Justice; Honorable Steven M. Vartabedian, Associate Justice; Honorable Betty L. Dawson, Associate Justice; and Kay Frauenholtz, Clerk/Administrator, by Rosemary Heredia, Assistant Deputy Clerk.

F044977 Clark v. San Joaquin Community Hospital et al.

Cause called and argued by James Ellis Arden, Esq., counsel for appellant Barbara Clark and by Michael C. Denison, Esq., counsel for appellants San Joaquin Community Hospital et al.

Cause ordered submitted.

Court recessed until Monday, February 14, 2005 at 10:00 A.M.

F044211 People v. Simmons

Appellant's petition for rehearing filed herein is denied.

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F043335 People v. Alcares

1. The personal use true finding as to each of counts I and II is reversed. (This action does not affect sentence.) 2. The indeterminate term of 25 years to life imposed on count II is stayed under Penal Code section 654. 3. The prior prison term enhancement based on appellant's 1976 Fresno County robbery conviction is stricken. 4. In all other respects the judgment as so modified is affirmed. 5. The superior court is directed to prepare an amended abstract of judgment which shall reflect (a) the striking of one of the previously-imposed Penal Code section 667.5, subdivision (b) enhancements as specified hereinabove; (b) the stay of the indeterminate term of 25 years to life on count II under Penal Code section 654; and (c) a indeterminate sentence of 25 years to life on count I, preceded by a 17-year determinate sentence consisting of 3 five-year prior serious felony enhancements, plus 2 one-year prior prison term enhancements. The superior court is directed to transmit certified copies of the amended abstract to all appropriate parties and entities. Harris, Acting P.J.

We concur: Wiseman, J.; Gomes, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F044708 People v. Walker

The judgment is affirmed. Gomes, J.

We concur: Harris, Acting P.J.; Wiseman, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F045254 People v. Garcia

The judgment is affirmed. Dibiaso, Acting P.J.

We concur: Vartabedian, J.; Dawson, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F043142 People v. Tucker

The judgment is reversed and a new trial is ordered. (§ 1260.)
Gomes, J.

We concur: Cornell, Acting P.J.; Dawson, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

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F046907 Jemain H. v. Superior Court, Fresno; Fresno Co. Dept. of Children & Family Services

The petition for extraordinary writ is denied.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F044612 Blackburn v. Hoffman

Oral argument having been waived in the above-entitled case in accordance with the provisions of a notice mailed to counsel, the calendar date heretofore set is vacated and the case is submitted for decision.

F047216 People v. Jackson-Wagner

The appeal in the above entitled action was taken from the superior court's denial of a petition for writ of habeas corpus, which is a nonappealable order. The appeal is therefore dismissed.